

Claims 1-17, 19 and 20 are pending in this application. Claims 1-20 stand rejected. Claim 18 has been canceled.

The rejection of Claims 1-20 under 35 U.S.C. § 103 as being unpatentable over Celi, Jr. et al. (U.S. Pat. No. 6,157,933) in view of Kiraly et al. (U.S. Pat. No. 6,088,731) is respectfully traversed

Celi Jr. et al. describe a method and apparatus for loading multiple animated images on a Web page 410 during browsing over a network that has a limited bandwidth. More specifically, when a user accesses a Web page through a browser 62, if the Web page is populated with a Java animation applet and at least one Java animation image. The file size of the Java animation image applet combined with the Java default animation image are controlled to remain small in size to facilitate a shorter download time. After the Web page is loaded and displayed, the Java applet retrieves an image series list containing a list of related images from the Web server. Each image is then downloaded to the Java animation application and displayed such that screen transition effects are displayed between sequential Java images. More specifically, the transition effects create a psycho-visual perception to the user of not waiting for additional information to download.

Kiraly et al. describe an intelligent assistant for use with a local computer system 112 and the Internet. System 112 includes a speech synthesis device 109 and a processor 101 that is programmed to execute the intelligent assistant. The assistant detects and collects information from authorized Web sites on behalf and to the benefit of the user. In one embodiment, the assistant is animated and through communication with the user, may be trained/programmed to perform new actions for existing commands. For example, in one embodiment, the user may click on a word to train the assistant from a pull-down menu, and by clicking on an action button 564 (shown in Figure 9), will identify an animation action associated with the word to the assistant.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been an obvious to one of ordinary skill in the art to modify Celi, Jr. et al. according to the teachings of Kiraly et al. More specifically, it is respectfully submitted that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the

prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Applicants respectfully disagree with the assertion in the Office Action that Celi, Jr. et al. teach the present invention except for "activation of the animation", and that Kiraly et al. teaches that such activation of the animation is widely known in the art. Moreover, Applicants submit that there is no teaching nor suggestion in the cited art for the claimed combination, and as such, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Specifically, Celi, Jr. et al. is cited for its teaching of a method for displaying web-based data files in an animated format, and Kiraly et al. is cited for its teaching that activation of animation is widely used in the art. Of course, such a combination, based on hindsight reconstruction, is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 1-20 be withdrawn.

Furthermore, Applicants respectfully submit that no motivation for the combination can be found within Celi, Jr. et al. and Kiraly et al., as Celi, Jr. et al. and Kiraly et al. teach

away from each other. Specifically, Celi, Jr. et al. describe a method for automatically loading multiple animated images on a Web page over a network, such that the user has no control over the animation speed or the animation activation, and in contrast, Kiraly et al. describe an animated assistant that may be used to access authorized Web sites to gather data and to communicate with the user through its animation, but does not describe nor suggest providing control of the animation speed or the animation access to the user.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicants respectfully submit that Celi, Jr. et al. teaches away from Kiraly et al., and as such, there is no suggestion or motivation to combine Celi, Jr. et al. with Kiraly et al.

To the extent understood, no combination of Celi, Jr. et al. and Kiraly et al., describes or suggests the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 1 recites a method for displaying web-based data files, wherein the method comprises the steps of "providing a centralized web structure for storing a plurality of web-based data files...displaying the plurality of web-based data files in a simulated animated format, such that a user controls at least one of an animation speed, and an activation of the animation."

Neither Celi, Jr. et al. nor Kiraly et al., considered alone or in combination, describe or suggest a method for displaying web-based data files, in a simulated animated format wherein the user controls at least one of an animation speed and an activation of the animation. Rather, in contrast to the present invention, Celi, Jr. et al. describe a method for automatically loading multiple animated images on a Web page over a network that has a limited bandwidth, wherein the user has no control over the animation speed or the activation of the animation, and Kiraly et al. describe using an animated assistant to gather data from authorized web sites, wherein the user does not have any control over animation speed or animation activation. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Celi, Jr. et al. in view of Kiraly et al et al.

Claims 2-5 depend from independent Claim 1. When the recitations of Claims 2-5 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-5 likewise are patentable over Celi, Jr. et al. in view of Kiraly et al et al.

Claim 6 recites “a customer applications web-site for displaying a plurality of data files in a simulated animated format...the web site including an interactive control panel configured to permit an end-user to control the animation display including at least one of a speed of animation and an activation of the animation display.”

Neither Celi, Jr. et al. nor Kiraly et al., considered alone or in combination, describe or suggest a web site including an interactive control panel that is configured to permit an end-user to control the animation display including at least one of a speed of the animation and an activation of the animation display. Rather, in contrast to the present invention, Celi, Jr. et al. describe a method for automatically loading multiple animated images on a Web page over a network that has a limited bandwidth, wherein the user has no control over the animation speed or the activation of the animation, and Kiraly et al. describe using an animated assistant to gather data from authorized web sites. For at least the reasons set forth above, Claim 6 is submitted to be patentable over Celi, Jr. et al. in view of Kiraly et al et al.

Claims 7-12 depend from independent Claim 6. When the recitations of Claims 7-12 are considered in combination with the recitations of Claim 6, Applicants submit that dependent Claims 7-12 likewise are patentable over Celi, Jr. et al. in view of Kiraly et al et al.

Claim 13 recites a web-based system comprising “a data storage device for storing a plurality of data files...a server system configured to be coupled to said client system and said database, said browser configured to display the data files in a simulated animated format, said browser further configured to permit an end-user to determine a sequential order of the data files.”

Neither Celi, Jr. et al. nor Kiraly et al., considered alone or in combination, describe or suggest a web-based system including a browser that is configured to permit an end-user to determine a sequential order of data files displayed in a simulated animated format. Rather, in contrast to the present invention, Celi, Jr. et al. describe a method for automatically loading multiple animated images on a Web page over a network that has a limited bandwidth, wherein the user has no control over the animation speed or the activation of the animation,

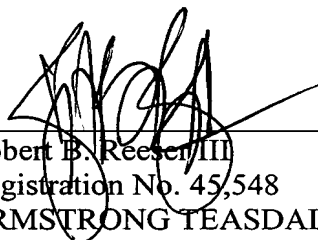
and Kiraly et al. describe using an animated assistant to gather data from authorized web sites. For at least the reasons set forth above, Claim 13 is submitted to be patentable over Celi, Jr. et al. in view of Kiraly et al et al.

Claim 18 has been canceled. Claims 14-17, 19, and 20 depend from independent Claim 13. When the recitations of Claims 14-17, 19, and 20 are considered in combination with the recitations of Claim 13, Applicants submit that dependent Claims 14-17, 19, and 20 likewise are patentable over Celi, Jr. et al. in view of Kiraly et al et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-20 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Kelly et al.

Serial No.: 09/815,492

Filed: March 23, 2001

For: METHOD AND SYSTEMS FOR  
SIMULATING ANIMATION OF WEB-  
BASED DATA FILES

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: Art Unit: 5661  
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**SUBMISSION OF MARKED UP CLAIMS**

Commissioner for Patents  
Box NON-FEE AMENDMENT  
Washington, D.C. 20231

Sir:

Submitted herewith are marked up Claims in accordance with 37 C.F.R.  
§1.121(c)(1)(ii):

IN THE CLAIMS

Please cancel Claim 18.

13. (once amended) A web-based system comprising:

a client system comprising a browser;

a data storage device for storing a plurality of data files; and

a server system configured to be coupled to said client system and said database, said  
browser configured to display the data files in a simulated animated format, said browser  
further configured to permit an end-user to determine a sequential order of the data files.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Robert E. Reaser III', is written over a horizontal line.

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